



## **CITY PLANNING COMMISSION**

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September 10, 2003/ Calendar No.26

N030404 ZRM

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**IN THE MATTER OF** an application submitted by the Department of City Planning, pursuant to Section 201 of the New York City Charter, for an amendment to the Zoning Resolution of the City of New York relating to Article VII, Chapter 8 (Large Scale Residential Developments) to modify the ownership provisions of Section 78-06 to allow modifications of Residential Large Scale authorizations or special permits granted in connection with expired Urban Renewal Plans.

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The application for an amendment to the Zoning Resolution was filed by the Department of City Planning on March 26, 2003, to modify the ownership provisions of Section 78-06 with regard to applications for modifications to previously approved authorizations and special permits in Large Scale Residential Developments ( the “LSRD”) within Urban Renewal Areas for which the Urban Renewal Plan has expired.

### **RELATED ACTION**

In addition to the amendment of the Zoning Resolution which is the subject of this report, the following application is being considered concurrently with this application:

#### **M920493(B) ZAM :**

an application for a modification of a previously approved Large Scale Residential Development to withdraw Site 33 (Lot 55, Block 1220) at 146 West 90<sup>th</sup> Street from the LSRD within the expired West Side Urban Renewal Plan.

## **BACKGROUND**

Under Section 78-06, the City's urban renewal agency (HPD) or its authorized designee, may make application for and be granted authorizations or special permits under Article VII, Chapter 8 (Special Regulations Applying to Large Scale Residential Developments), for a tract of land which is part or all of an Urban Renewal Area, without regard to the ownership requirements of that section which generally require that the tract of land which is the subject of the application be under the control of the applicant(s) as owner(s) or holder(s) of a written option to purchase. Consistent with these provisions, the urban renewal agency or its authorized designee may also apply for and be granted modifications to previously granted authorizations or special permits for a LSRD. The purpose of these special provisions relating to the urban renewal agency is to facilitate the use of the LSRD authorizations and special permits to further the implementation of Urban Renewal Plans, and their associated acquisitions and dispositions of real property. Section 78-06 does not currently provide a method for modification of a LSRD with boundaries coterminous with or within an Urban Renewal Area once the Urban Renewal Plan has expired.

The amendment would make owners of vacant sites eligible to file such applications, provided that: the requested modification does not seek a transfer of floor area from other zoning lots within the LSRD not included in the owner(s) parcel(s); and as a result of the modification, the total allowable floor area of the parcel(s) would not exceed that permitted in the applicable zoning district. The amendment would also allow such owner(s) to withdraw their parcel(s) from the LSRD, provided this would not create a non-compliance in the LSRD.

The amendment would apply to designated former Urban Renewal Areas. At this time, the West Side Urban Renewal in Community District # 7 is proposed for designation.

### **ENVIRONMENTAL REVIEW**

This application (N030404 ZRM), in conjunction with the application for the related action (M920493B ZAM), was reviewed pursuant to the New York State Environmental Quality Review Act (SEQRA), and the SEQRA regulations set forth in Volume 6 of the New York Code of Rules and Regulations, Section 617.00 et seq. and the City Environmental Quality Review (CEQR) Rules of Procedure of 1991 and Executive Order No. 91 of 1977. The designated CEQR number is 03DME012M. The lead agency is the Office of the Deputy Mayor for Economic Development and Rebuilding.

After a study of the potential environmental impact of the proposed action, a Negative Declaration was issued on June 2, 2003.

### **PUBLIC REVIEW**

On June 2, 2003, the text amendment was duly referred to Community Board 7 and the Borough President for information and review in accordance with the procedure for referring non-Uniform Land Use Review Procedure (ULURP) matters.

### **Community Board Public Hearing**

Community Board 7 held a public hearing on July 1, 2003, and on that day, by a vote of 33 in

favor, 0 opposed and 0 abstentions, adopted a resolution recommending approval of the application.

### **Borough President Recommendation**

The application was considered by the Borough President, who issued a recommendation approving the application on July 24, 2003.

### **City Planning Commission Public Hearing**

On August 13, 2003 (Calendar No.5), the City Planning Commission scheduled August 27, 2003, for a public hearing on this application (N030404 ZRM). The hearing was duly held on August 27, 2003 (Calendar No.10).

There was one speaker in favor of the application and no speakers in opposition.

Speaking in favor of the application was the attorney representing the Steven Gaynor School and Ballet Hispanico, the applicants for the related action seeking a modification of a previously approved Large Scale Residential Development to withdraw their Site from the LSRD within the expired West Side Urban Renewal Plan to facilitate the development of a multi-disciplinary education facility for the Steven Gaynor School and Ballet Hispanico.

There were no other speakers and the hearing was closed.

### **CONSIDERATION**

The Commission believes that the proposed text amendment to modify the ownership provisions

of Section 78-06 to allow modifications of Large Scale Residential authorizations or special permits is appropriate.

Section 78-06 does not currently provide a method for modification of an LSRD with boundaries coterminous with or within an Urban Renewal Area once the Urban Renewal Plan has expired. Modifications to LSRDs generally require that all owners of property within the LSRD consent to the modification. However, it would be inappropriate to require that application for any modification be made by or with the consent of the owners of all the property located within an LSRD coterminous with an expired Urban Renewal Plan, given the size of the LSRDs associated with Urban Renewal Areas and the large number of property owners involved.

The proposed text amendment defines circumstances under which application may be made by owner(s) of a parcel(s) within the LSRD for modification(s) relating to such parcel(s). The modification(s) may be granted provided that the parcel(s) are vacant land, that no floor area is transferred from zoning lots not included in the parcel(s), and there is no increase in the allowable floor area on any zoning lot included in such parcel(s) beyond that which is permitted by the district regulations. Further, modifications may include withdrawal of such parcel(s) from the LSRD provided such withdrawal does not create a non-compliance with the LSRD.

While the proposed text amendment would apply at this time only to the former West Side Urban Renewal Area (WSURP) within Community District 7 in Manhattan, the Commission recognizes

that it may be extended in the future to other former Urban Renewal Areas with LSRDs. The Commission also recognizes that the application filed by the Steven Gaynor School and Ballet Hispanico to modify the LSRD to allow withdrawal of Site 33 to facilitate development of a multi-disciplinary educational facility, is the first of its kind; accordingly, the circumstances under which application may be made for modifications to special permits or authorizations within LSRDs associated with former Urban Renewal Areas may require redefinition as new proposals for developments or enlargements emerge at these locations.

## **RESOLUTION**

**RESOLVED**, that the City Planning Commission finds the action described herein will have no significant impact on the environment; and be it further

**RESOLVED**, by the City Planning Commission, pursuant to Section 201 of the New York City Charter, that based on the environmental determination and consideration described in this report, the Zoning Resolution of the City of New York, effective as of December 15, 1961, and as subsequently amended, is further amended as follows:

### **Text Amendment to 78-06 (Ownership of a Large Scale Residential Development)**

New text is underlined

Text within # # is defined in the Zoning Resolution

## Chapter 8

10/27/99

### 78-06

#### Ownership

Except as otherwise provided in this Section, any #large-scale residential development# for which application is made for an authorization or special permit in accordance with the provisions of this Chapter shall be on a tract of land that at the time of application is all under the control of the applicant(s) as the owner(s) or holder(s) of a written option to purchase. No authorization or special permit shall be granted for such #development# unless the applicant(s) acquired actual ownership (single fee ownership or alternate ownership arrangements according to the #zoning lot# definition in Section 12-10 (DEFINITIONS) for all #zoning lots# comprising the #development#) of, or executed a binding sales contract for, all of the property comprising such tract.

When a #development# is part or all of a designated urban renewal project, the City's urban renewal agency, or a person authorized by such agency, may make application for and be granted authorizations or special permits under the provisions of this Chapter, even though such #large-scale residential development# does not meet the ownership requirements set forth elsewhere in this Section. All parcels comprising such #large-scale residential development# shall be within the designated urban renewal area and subject to the urban renewal controls set forth in the approved urban renewal plan. In the event that the urban renewal plan has expired, the owner(s) of a vacant parcel(s) within such #large scale residential development#, if located in a former urban renewal area listed below, may make application for and be granted modifications of authorizations or special permits previously granted under the provisions of this chapter

with respect to such parcel(s), provided that such modification does not seek: (i) the distribution of #floor area# from any #zoning lot# not included within such parcel(s); or (ii) to increase the total allowable #floor area# on any #zoning lot# included within such parcel(s) beyond the amount permitted by the applicable district regulations. Such modifications may include the withdrawal of such parcels from the boundaries of the #large

scale residential development#, provided that such modification would not create a non-compliance within the #large scale

residential development#.

West Side Urban Renewal Area - Community District #7 Manhattan

When a #residential large-scale development# is to be #developed# or #enlarged# through assemblage by any other governmental agency, or its agent, having the power of condemnation, authorizations or special permits may be applied for and granted under the provisions of this Chapter, even though such #large-scale residential development# does not meet the ownership requirements set forth elsewhere in this Section.

The above resolution (N030404 ZRM), duly adopted by the City Planning Commission on September 10, 2003 (Calendar No. 26 ), is filed with the Office of the Speaker, City Council, and the Borough President in accordance with the requirements of Section 197-d of the New York City Charter.

**AMANDA M. BURDEN, AICP, Chair**  
**KENNETH J. KNUCKLES, ESQ., Vice Chairman**

**IRWIN G. CANTOR, P.E., ANGELA R. CAVALUZZA, R.A., RICHARD W. EADDY,**  
**ALEXANDER GARVIN, JANE D. GOL, CHRISTOPHER KUI, JOHN MEROLO,**  
**KAREN A. PHILLIPS, JOSEPH B. ROSE, DOLLY WILLIAMS, Commissioners**